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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 170605543-7999-02]**

**RIN 0648-XG021**

**Atlantic Highly Migratory Species; Commercial Blacktip Sharks, Aggregated Large Coastal Sharks, and Hammerhead Sharks in the western Gulf of Mexico Sub-Region; Closure**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the commercial fishery for blacktip sharks, aggregated large coastal sharks (LCS), and hammerhead shark management groups in the western Gulf of Mexico sub-region. This action is necessary because the commercial landings of sharks in the aggregated LCS management group in the western Gulf of Mexico sub-region for the 2018 fishing season has reached 80 percent of the available commercial quota as of March 8, 2018, and the aggregated LCS and hammerhead shark management groups are quota-linked under the regulations. The blacktip shark fishery in the western Gulf of Mexico sub-region will be closed to help minimize regulatory discards of sharks in the aggregated LCS management group in the western Gulf of Mexico sub-region, since LCS are often caught in conjunction with blacktip sharks in the commercial shark fisheries. This closure will affect anyone commercially fishing

for sharks in the western Gulf of Mexico sub-region.

**DATES:** The commercial fishery for blacktip sharks and for the aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region are closed effective 11:30 p.m. local time March 13, 2018 until the end of the 2018 fishing season on December 31, 2018, or until and if NMFS announces via a notice in the *Federal Register* that additional quota is available and the season is reopened.

**FOR FURTHER INFORMATION CONTACT:** Lauren Latchford or Karyl Brewster-Geisz 301-427-8503; fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), dealers must electronically submit reports on sharks that are first received from a vessel on a weekly basis through a NMFS-approved electronic reporting system. Reports must be received by no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Under § 635.28(b)(4), the quotas of certain species and/or management groups are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)). The quotas for aggregated LCS and the hammerhead shark management groups in the western Gulf of Mexico sub-region are linked (§ 635.28(b)(4)(iii)). The blacktip shark quota in the western Gulf of Mexico sub-region is not linked to the

aggregated LCS or hammerhead shark quotas.

Under § 635.28(b)(2) and (3), when NMFS calculates that the landings for any species and/or management group of either a non-linked or a linked group have reached or are projected to reach a threshold of 80 percent of the available quota, NMFS will file for publication, with the Office of the *Federal Register*, a notice of closure for all of the species and/or management groups of either a non-linked or linked group that will be effective no fewer than five days from date of filing. For blacktip sharks, under § 635.28(b)(5), NMFS may close the regional or sub-regional Gulf of Mexico blacktip shark management group(s) before landings reach, or are expected to reach, 80 percent of the quota, after considering specified regulatory criteria and other relevant factors.

From the effective date and time of the closure until and if NMFS announces, via a notice in the *Federal Register*, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups and specified non-linked species and/or management groups are closed, even across fishing years.

On November 22, 2017 (82 FR 55512), NMFS announced that for 2018, the commercial western Gulf of Mexico blacktip shark sub-regional quota was 347.2 metric tons (mt) dressed weight (dw) (765,392 lb dw), the western Gulf of Mexico aggregated LCS sub-regional quota was 72.0 mt dw (158,724 lb dw), and the western Gulf of Mexico hammerhead shark sub-regional quota was 11.9 mt dw (26,301 lb dw). Dealer reports received through March 8, 2018, indicate that 86 percent (61.7 mt dw) of the available western Gulf of Mexico aggregated LCS management group sub-regional quota has been landed and that 57 percent (6.8 mt dw) of the available western Gulf of Mexico hammerhead shark sub-regional quota has been landed. Based

on these dealer reports, the western Gulf of Mexico aggregated LCS management group sub-regional quota has exceeded 80 percent and meets the closure threshold. While the western Gulf of Mexico hammerhead shark sub-regional quota has reached 57 percent of the available quota, it is linked to the aggregated LCS fishery and therefore closes when the aggregated LCS management groups in the western Gulf of Mexico sub-region closes. Accordingly, NMFS is closing the commercial aggregated LCS and hammerhead management groups in the western Gulf of Mexico sub-region as of 11:30 p.m. local time March 13, 2018.

Dealer reports received through March 8, 2018, indicate that 77 percent (265.9 mt dw) of the available western Gulf of Mexico blacktip shark sub-regional quota has been landed. Regulations at § 635.28(b)(5)(i)-(v) authorize the closure of the blacktip shark fishery before landings reach, or are expected to reach, 80 percent of the quota if warranted after considering the following criteria and other relevant factors: season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. NMFS has considered these criteria with respect to blacktip sharks in the western Gulf of Mexico sub-region, and in particular, considered sub-regional distribution and abundance (§ 635.28(b)(5)(ii)) and sub-regional catch rates (§ 635.28(b)(5)(v)) in determining that a closure is warranted at this time.

The directed shark fisheries in the western Gulf of Mexico sub-region exhibit a mixed species composition, with a high abundance and distribution of aggregated LCS caught in

conjunction with blacktip sharks. As a result, closing the aggregated LCS and hammerhead shark management groups while leaving only the blacktip shark fishery open in the western Gulf of Mexico sub-region could cause large numbers of regulatory discards of aggregated LCS species. Such discards could hinder the management goals and interfere with accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments (§ 635.28(b)(5)(iii)), which include preventing overfishing while achieving on a continuing basis optimum yield and rebuilding overfished shark stocks. Such discards would also be contrary to National Standard 9, which requires that management measures minimize bycatch and bycatch mortality, particularly if the discards are dead and are of overfished species. A single closure for the blacktip, aggregated LCS, and hammerhead management groups in the western Gulf of Mexico sub-region would minimize regulatory discards, and help prevent overfishing, of aggregated LCS in the western Gulf of Mexico sub-region, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the criteria at §635.28(b)(5). Accordingly, NMFS is closing the commercial blacktip shark fishery in the western Gulf of Mexico sub-region as of 11:30 p.m. local time March 13, 2018.

All other shark species or management groups in the western Gulf of Mexico sub-region that are currently open will remain open, including the commercial Gulf of Mexico non-blacknose small coastal sharks (SCS), blue sharks, smoothhound sharks, and pelagic sharks other than porbeagle or blue sharks.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered

for the purposes of monitoring and setting quotas, to be within the Gulf of Mexico region. The boundary between the western and eastern Gulf of Mexico sub-regions is drawn along 88° 00' W. long (§ 635.27(b)(1)(ii)). Persons fishing aboard vessels issued a commercial shark limited access permit under § 635.4 may still retain blacktip sharks, aggregated LCS, and/or hammerhead sharks management groups in the eastern Gulf of Mexico sub-region (east of 88° 00' W. long).

During the closure, retention of blacktip sharks, aggregated LCS, and/or hammerhead sharks management groups in the western Gulf of Mexico sub-region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under § 635.4. However, persons aboard a commercially permitted vessel that is also properly permitted to operate as a charter vessel or headboat for HMS, has a shark endorsement, and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and “no sale” provisions (§ 635.22 (c)). Similarly, persons aboard a commercially permitted vessel that possesses a valid shark research permit under § 635.32 and has a NMFS-approved observer onboard may continue to harvest and sell blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region pursuant to the terms and conditions of the shark research permit.

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region from a vessel issued an Atlantic shark limited access permit (LAP), except that a permitted shark dealer or processor may possess blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region that were harvested, off-loaded, and sold, traded, or bartered prior to the effective date of the closure and were held in storage

consistent with § 635.28(b)(6). Additionally, a permitted shark dealer or processor may possess blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region that were harvested by a vessel issued a valid shark research fishery permit per § 635.32 with a NMFS-approved observer onboard during the trip the sharks were taken on as long as the LCS research fishery quota remains open. Similarly, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with relevant state regulations, purchase or receive blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

### **Classification**

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action would result in overharvest of the quotas for these species and management groups and thus would be inconsistent with fishery management requirements and objectives. The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of availability on the fishing grounds, the migratory nature of the species, and the regional variations. NMFS is not able to give notice sooner nor would sooner notice be practicable given the structure of the regulations, which close the fisheries under specified regulatory criteria or thresholds, and closure determinations need to be based on near real-time data to balance fishing opportunities

against the management goal of preventing quota overharvests. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if a quota is exceeded, the stock may be negatively affected and fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). This action is required under § 635.28(b)(3) and § 635.28(b)(5) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 8, 2018

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Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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